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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,494	07/24/2001	Thoedore M. Wong	SP-1093.2	7897

7590 06/23/2006
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EXAMINER

WARE, DEBORAH K

ART UNIT PAPER NUMBER

1651

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
After the Filing of an Appeal Brief

Application No.

09/912,494

Examiner

Deborah K. Ware

Applicant(s)

WONG ET AL.

Art Unit

1651

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 27 April 2006 is acknowledged.

1. ☒ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☒ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: Further, the declaration filed under 37 CFR 1.131 (appendix U) even if timely filed would not be considered to be sufficient because original exhibits of drawings or records, photocopies of laboratory notes, etc., must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained in accordance with 37 CFR 1.131. (b). The declaration does not establish the facts of the case in such a way to show reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice Therefore, Applicants' declaration filed with the brief does not properly reduce Applicants' claimed invention to practice before the filing date of Thomas et al. (US Patent No. 6,313,273).

D. Ware
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DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT ~~128~~/1651